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DEC ACCEPTING APPLICATIONS FOR NEW BROWNFIELD CLEANUP PROGRAM

Program Will Enhance Private Sector Cleanup of Brownfields

ALBANY, NY -- (12/09/2003; 1300)(EIS) -- New York State Department of Environmental Conservation (DEC) Commissioner Erin M. Crotty today announced that DEC is accepting applications for the new Brownfield Cleanup Program (BCP), created by landmark legislation recently passed by the Legislature and signed into law by Governor Pataki. The law creates a new brownfield program to foster the cleanup of thousands of contaminated properties, while encouraging new investment and redevelopment of these sites across New York State.

"By restoring the State Superfund and creating a new Brownfields Program, Governor Pataki has put us on a track to remarkable success in the cleanup and redevelopment of brownfields throughout New York State," Commissioner Crotty said. "The goal of this new program is to enhance private-sector cleanups of brownfields and to reduce development pressure on greenfields. This new program now provides parties with the predictability and finality they need in order to make remediating a contaminated property a sound investment."

The BCP is modeled after the former Voluntary Cleanup Program (VCP) and addresses hazardous wastes, hazardous substances and petroleum contamination. DEC stopped accepting VCP applications on October 31, 2003. The BCP application form and additional information on the BCP is available at <http://www.dec.state.ny.us/website/der/bcp/>. All parties under the VCP are encouraged to transition to the BCP with its enhanced benefits. Volunteers will be given until March 31, 2004 to elect to change from the VCP to the BCP. Volunteers electing not to transition to the BCP by that date, or failing to make an election, will complete their projects under the VCP. DEC will issue interim guidance on the BCP later this year.

The legislation establishes a comprehensive package of tax credits available to parties cleaning up sites under the BCP. The tax credits have an estimated value of \$135 million annually when fully effective. These credits will offset costs associated with real property taxes, site preparation, and property improvements. The tax credits are effective for tax years beginning on or after April 1, 2005. Tax credits increase for developers that remediate a site to unrestricted use in an economically

distressed area defined as Environmental Zones (EN-Zones). The tax package also includes an innovative environmental insurance credit that will help offset the costs developers might incur to purchase such policies.

Under the BCP, thorough and consistent site investigations will continue to be required. Further, cleanups will continue to fully protect public health and the environment based on remedy selection criteria. The BCP establishes predictable cleanup requirements, using cleanup tables and a multi-track approach for the remediation of contamination. Soil cleanup objectives will be based on generic tables of contaminant specific remedial action objectives for soil based on the site's current, intended or reasonably anticipated future use.

Under the legislation, four Soil Cleanup Tracks will be established: Track 1 - unrestricted use; Track 2- commercial and industrial use with groundwater engineering and institutional controls; Track 3 - unrestricted, commercial and industrial use applying the formula used to develop tracks but applying site specific data; and Track 4 - site-specific soil cleanup objectives using site-specific information.

The legislation also provides appropriate liability relief to innocent landowners, lenders, municipalities and fiduciaries, while continuing to hold polluters responsible for the contamination they have caused. When a party satisfactorily completes a cleanup, it receives liability limitations set forth in the statute.

Additionally, this new legislation enhances and improves the Environmental Restoration Program (ERP). The 1996 Clean Water/Clean Air Bond Act established a \$200 million ERP fund to provide grants to municipalities with eligible costs to investigate and remediate municipally-owned brownfield sites. The new comprehensive legislation enhances and improves the program in several ways: it increases State grants to municipalities from up to 75 percent to up to 90 percent of on-site and 100 percent of off-site eligible costs; allows municipalities to leverage federal assistance or other State assistance to fund their share; allows municipalities to be considered "title owners" during tax foreclosures for purposes of site investigations; broadens definition of eligible municipality to include a community-based organization in partnership with a municipality; and municipalities are no longer required to share profits with the State when brownfield properties remediated under the ERP are sold.

The legislation also provides for Brownfield Opportunity Area (BOA) planning opportunities. BOA grants will be available to municipalities and community-based organizations to strategically plan for the redevelopment of brownfields within targeted urban areas. Grants will be available for brownfield preplanning, planning and assessment activities.

In addition, the new program:

Provides funding:

-- \$120 million will be made available on an annual basis for the State Superfund Program and the off-site remediation of significant threat sites being remediated by a volunteer in the BCP. The \$120 million will be financed with bonds issued by the State Environmental Facilities Corporation.

-- Up to \$15 million for the new Brownfield Opportunity Areas Program, technical assistance grants to community based organizations to participate in the Superfund and the BCP for significant threat sites and for the implementation and oversight of the BCP.

-- Separately, \$33 million for the Oil Spill Program to be financed by industry fees.

Expands Sites Eligible for Cleanup under State Superfund Program:

The new law redefines hazardous waste to include hazardous substances. This will allow for the cleanup of significant threat hazardous substance sites which have been excluded from the State's Superfund program for 20 years. DEC has identified hazardous substance sites that may pose a significant threat to public health and the environment that will now be addressed through the Superfund Program.

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